Election Day Observation Program Report

February 5, 2008, Presidential Primary Election

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This report summarizes the work of the Election Observation Program conducted by the Secretary of State (SOS) during the February 5, 2008, Presidential Primary Election, the earliest presidential primary election held in California history.

Overall, the election that saw nearly 9.1 million ballots cast and involved over 100,000 poll workers at more than 23,000 precincts went smoothly. SOS observers witnessed first-hand the dedication, friendliness, and helpfulness county elections officials and poll workers showed to voters. However, no election is flawless, and on February 5, 2008, some voters and poll workers confronted a number of different issues that are discussed in this report.

Background

The SOS Election Day Observation Program was created in 2003 as a poll monitoring program that focused on four issues:

1) Late Opening of the Polls
2) Long Lines at Polling Places
3) Electioneering
4) Voter Intimidation

Poll monitors visited up to six polling places in a county and then moved to another county. Each monitor could visit several counties in one day. In some instances, a monitor was assigned to a single county for the entire day. This program was used in the 2003 Gubernatorial Recall Election and the June 2004 Primary Election.

The 2006 election cycle was the first in California during which counties were required to comply with all of the requirements of the 2002 Help America Vote Act (HAVA). The Election Day Observation Program replaced the poll monitoring program in 2006, with a change of focus intended to provide a more comprehensive snapshot of the election process in selected counties over the course of Election Day. Observers were assigned to one county and instructed to observe the opening of a polling place, the closing of a polling place, the return of ballots and equipment to the county election center, and to visit up to 25 polling places within the county on Election Day.

The goal was to assess how counties were meeting the challenges of implementing HAVA and how the SOS could best support counties in successfully implementing these changes. In the June 2006 primary election, 31 election observers were sent to 23 counties across the state. The observers (all SOS employees) were charged with reporting how the county elections officials, poll workers, and voters responded to the changes and what they found to be the biggest challenges in meeting the new HAVA requirements.

To help each county identify how it needed to strengthen its poll worker training and voter education programs, the SOS Elections staff shared with each county elections official what the SOS observers saw in their county on Election Day. County officials also were invited to suggest how the SOS might provide better support and guidance to counties in areas of concern.

The effectiveness of this approach seemed to be borne out when 33 SOS observers visited 31 counties during the November 2006 General Election. Issues that had been observed in June were either drastically mitigated or resolved by November. Voters seemed more aware of how the voting equipment was supposed to work and what they could expect at the polls than they had been in June. Overall, the observers were very impressed with the professionalism, friendliness, and helpfulness of the poll workers. They praised the county training programs and the level of knowledge of the poll workers. The counties and their voters appeared to be meeting the challenges of adapting to the new voting systems mandated by HAVA, and most poll workers and voters were comfortable with the process by the end of 2006.

Election Day Observation in 2008

The February 5, 2008, Presidential Primary Election was the first statewide election held in California under new use procedures and security guidelines for voting systems set by Secretary of State Debra Bowen. Following a 2007 top-to-bottom review (TTBR) of a number of optical scan and direct electronic recording (DRE) voting systems approved for use in California, Secretary Bowen restricted the use of most DRE systems to one machine per precinct, which effectively required counties to rely on optical scan systems as their primary voting method. Only one DRE system – the Hart eSlate, used in Orange and San Mateo counties – was not subject to the one-machine-per-voting-precinct limitation. Twenty-one counties that had used a DRE voting system as their primary means of balloting in 2006 returned to using a paper-based optical scan voting system in 2008.

For the election, 37 SOS observers were sent to 31 counties – 18 of which were making the change back from primarily using a DRE voting system in 2006 to an optical scan system in 2008 – to see how elections were being conducted. As in the past, all observers were selected from the Secretary of State's staff.

Counties Selected for the February 5, 2008, Election Day Observation Program

Alameda	Los Angeles	Sacramento	Santa Cruz
Butte*	Mariposa*	San Benito*	Shasta*
Colusa	Mendocino	San Bernardino*	Solano
Glenn*	Monterey*	San Diego*	Sutter*
Imperial*	Napa*	San Francisco	Tehama*
Kern*	Nevada	San Joaquin*	Ventura
Kings *	Orange	San Mateo	Yuba*
Lake	Riverside*	Santa Clara*	

* Counties that used primarily DRE voting systems in polling places in 2006 and returned to paper-based voting in 2008

Selected counties provided the SOS with a list of all polling places in their county. Counties were asked to allow SOS observers to attend one of their poll worker training sessions to learn 1) what was required of the poll workers; and 2) how the poll workers were instructed to deal with issues or problems.

SOS Observer Training

In addition to the county poll worker training, SOS observers attended training sessions led by senior SOS Elections staff. They also received a training manual and were instructed to observe listed procedures and summarize their observations.

SOS observers were instructed to:

- Look for posted signs and flags to determine if polling places were easy to find;
- Report on any accessibility problems related to parking or the facility itself;
- Report any incidents of electioneering or voter intimidation;
- Assess the voting environment as to proper lighting, effective staging of poll worker tables and voting equipment, and voter privacy;
- Determine if all required voter information was posted or available and easy to read in all legally required languages;
- Note if accessible voting booths and equipment were set up and readily available;
- Assess if the voting process appeared to be well organized;
- Report if voters were required to wait in line for more than 10 minutes;
- Report any issues that appeared to be confusing to either poll workers or voters;
- Determine if security measures for ballots and equipment were being followed; and,
- If possible, without disrupting the voting process or disturbing voters, ask poll workers if they had experienced any difficulties with equipment, procedures, or voter confusion.

SOS observers were told to call in reports of any problems or challenges they felt needed immediate or Election Day attention from either county officials or the SOS's Elections staff. They were also asked to provide an overview on issues that were common to the polling places they visited and any apparent underlying causes and/or possible remedies.

Issues

SOS observers reported a number of different problems encountered by voters and poll workers on Election Day, along with a number of creative approaches taken by counties to assist voters.

The issues noted by the SOS observers fall into seven basic categories:

- Ballots and Registration
- Signs and Flags
- Polling Facilities
- Staffing
- Voting Equipment
- Voter Awareness
- Poll Worker Training

Ballots and Registration

There were registration and ballot issues in virtually all of the 31 counties visited by SOS observers. Following are some of the commonly reported ballot and registration issues noticed in the February 5, 2008, Presidential Primary Election.

- Decline to State (DTS) voter issues. The American Independent Party (AIP) and the Democratic Party opened their primaries to voters who had declined to state a political party when they registered to vote. Many DTS voters were confused about what voting options were (or were not) available to them, and some poll workers were equally confused.

- In a general election, all voters in a precinct get the same ballot, regardless of what political party (if any) they are registered to vote in. However, in a primary election, each political party has its own ballot. All ballots are required to be printed in two to seven languages, depending on the county. That means in a general election poll workers have to handle between two and seven different ballot types, but in primary election they have to handle between 14 and 49 ballot types (or potentially up to 63 ballot types depending on how a county prints ballots for DTS voters).

- Some DTS voters asked for AIP ballots, thinking of themselves as "independents," and not realizing that AIP was a political party. Many of them voted their ballot and put it in the ballot box before asking a poll worker why a candidate they had wanted to vote for (a candidate from another party) was not included on the ballot. Since they had already deposited their voted ballot, they could not receive a new ballot from a different political party.

- Voters who said they had been registered in one political party showed up on the registration rolls as DTS voters. Upon later investigation, the SOS Elections Division discovered many of these voters had moved since the last election and had changed their registration to their new address. If they had submitted a new registration form to change their address, they may not have checked their political party on the new form. Under California law, a person who does not specify a political party on their voter registration form is automatically registered as a DTS voter.

- Several rural counties had changed some precincts to Vote By Mail (VBM) precincts as the voting population had declined. Some voters discarded or did not use their VBM ballots, assuming they were sample ballots. They appeared at the nearest polling place to vote and were angry when told they had to cast a provisional ballot.

- By Election Day, both major party contests were still very close. Some VBM voters held onto their ballots until the last minute, then appeared at their polling place, where they were required to vote provisionally if they had not brought their VBM ballot with them.

<u>Signs and Flags</u>

As was reported in 2006, the most common problem noted was poor visibility of polling places or a lack of some required signage. Many polling places in 15 of the 31 counties observed were difficult to find because of inadequate or small signage. Following are problems that SOS observers found in several counties.

- Location signs were too small. Those locations that were able to hang full-sized flags outside the door were easily spotted.

- Location signs were posted too far from the road to be seen while driving.

- A sign was posted to indicate there was a polling place, but there were no directional signs to help voters find the door to the polling place.

- Signs provided by the county had arrows only pointing in one direction. If an arrow pointing in the opposite direction was needed, the sign had to be inverted, so the "Vote Here" message was upside down.

- Not all of the voter information signs required by law were posted in all polling places.

SOS observers in Kern County and San Diego County reported outstanding signage for polling places. Kern County customized the signs for each polling place. Poll workers were given binders with photos showing where and how to post each sign. San Diego County used 18" by 24" bright yellow signs with black lettering in each of the required languages. These signs were easily seen from the street, even after dark.

Inside the polling places, many counties used free-standing signs and put all of the required signs in one place. Butte County caught voter attention using eye-catching poster headlines, such as "Did My Vote Count?" (for provisional voters), "Attention – Non-Partisan Voters" (listing DTS voter options), "First Time Federal Voting Procedures" (giving identification requirements for first-time voters). These signs made it easy for voters in those categories to find information that could affect them.

<u>Polling Facilities</u>

Counties continue to report difficulties in finding appropriate buildings to use as polling places. Accessibility and availability continue to be key issues. As a result, more precincts are sharing polling places, which can be a problem when the site is not adequate to handle multiple precincts. Following are the most common problems reported about facilities.

- Area was too small to properly set up equipment.

- Garages or other out-buildings had no cooling, heating, or air circulation available.

- The configuration of some sites required the voting booths to be set up where voter privacy was compromised or where poll workers could not see the booths.

- Inadequate lighting, inside and outside of facilities, was fairly common.

In one Solano County polling place shared by two precincts, creative poll workers posted a sign that not only displayed the precinct numbers, but listed the street names in each precinct, making it very easy for voters to approach the right table.

<u>Staffing</u>

Though finding enough poll workers to staff the polling places is often a problem, there were fewer reports of acute shortages than occurred in the 2006 Primary Election. Many counties used students to fill out the ranks of poll workers. Following are common complaints familiar in both the 2006 and the 2008 elections.

- The work hours were too long. Some poll workers believed more people might volunteer if shifts could be split.

- Voting equipment is getting heavier and more complicated to set up. Some seniors found it more difficult to do the job.

- In some areas, it is difficult to find bilingual speakers to meet the needs of voters who do not speak English.

- Some counties had fewer rovers (trained county employees who visit various polling places throughout the day and are available for immediate dispatch to problem areas) than in 2006. As a result, county response to poll worker requests for assistance appeared to be slower. SOS observers reported this problem more frequently during this election than SOS observers did in 2006, when rovers played a major role in troubleshooting and delivering county assistance in the field.

Voting Equipment

The February 5, 2008, Presidential Primary Election was the third statewide election in which HAVA-compliant equipment that, among other things, allowed voters with disabilities to vote independently was required. Many counties comply with this requirement by providing at least one DRE machine in each polling location. As noted earlier in the report, 21 counties that had used DRE machines as the primary balloting method in 2006 reverted to using optical scan machines following Secretary Bowen's 2007 decision to limit the use of DREs in those counties to one per precinct location. Following are the most common voting equipment-related issues noted by the SOS observers on Election Day.

- In some polling places, the accessible equipment set up to assist voters with disabilities (though under the law, any voter can use the equipment) was used by only a few voters or not at all. In other polling places, voters stood in line to vote on the machines instead of using a paper ballot that would be tabulated on an optical scan machine.

- In many counties, poll workers appeared to need more training and experience in setting up the DRE, optical scan, and other equipment.

- Poll workers in some counties were less attentive to security than SOS observers reported in 2006.

- Accessibility issues, such as a lack of wheelchair-height tables, were reported at approximately the same levels as in 2006.

- One common observation reported this election and in 2006: In some polling places, poll workers did not set up an accessible voting booth in advance. Instead, they waited until a voter asked to use the booth and then set it up.

- Frequently, only one poll worker per precinct had gone through "hands-on" training in how to operate the DRE and the optical scan equipment. To some SOS observers, it appeared that some counties had fewer technicians available to respond to voting machine problems. That combination meant that machines that experienced problems tended to be out of service for longer periods of time.

- There was a higher incidence of reports of ballot boxes not being sealed during Election Day. SOS observers noted that in almost all cases, boxes were sealed for transport back to the county elections office.

Voter Awareness

The most common problems seen by SOS observers included:

- When voters were assigned to a new polling place, many did not notice the change in their sample ballot and did not know where to go to vote.

- Some voters who had been switched to all-mail precincts did not understand the change and discarded their VBM ballots, mistaking them for sample ballots. Some of them went to the nearest open polling place and complained of the inconvenience.

- Some DTS voters did not understand their ballot options in a primary election.

- Many voters did not understand how to use paper-based voting systems correctly or did not take time to follow posted directions (e.g. fill in the bubble completely, use the pen provided, or draw a line to complete the arrow).

- In several Orange County polling places located in "Little Saigon," poll workers reported that Vietnamese voters asked why candidates for both parties did not appear on the ballot. Poll workers explained that this was a primary election. Not fully understanding what a primary election was and not wanting to ask more questions, such voters left without voting.

- Some voters, when offered a provisional ballot as an option, expressed concerns that their vote would not count.

Poll Worker Training

In most counties, poll worker training was excellent. Some trainers conducted interactive sessions with role playing, hands-on equipment experience, and trivia quizzes on covered topics, while others had no question-and-answer period and no hands-on training. SOS observers consistently noted that counties with strong training programs had far fewer problems on Election Day than counties with weaker programs. Based on what SOS observers witnessed, the following areas of poll worker training could be most improved.

- Most poll workers were assigned one set of duties and trained only to accomplish that set of duties. If one worker was absent, other workers were unable to fill in. There were several reports of voters having to wait until a particular poll worker returned from a break before an issue could be resolved and the voter could cast a ballot.

- For both DRE and paper-based systems, there seemed to be a lack of clear, step-by-step procedures for opening and setting up or closing and tallying. Many poll workers were confused about how to close out and reconcile paper ballot counts. Because the instructions in some cases appeared to have been written for a general election, such as one that simply said to "count voted ballots," some poll workers counted all voted ballots, then found out they had to have separate counts for each political party, so they had to start over again.

- Many poll workers did not appear to be well-versed on the security measures for both DRE and paper-based systems. Illustrations of where each seal should be placed and what type of seal should be used in each place on each piece of equipment are easier to follow than written descriptions.

- HAVA requires one accessible voting unit to be available at each polling place in order to increase access to voting independently by all eligible voters. SOS observers witnessed poll workers telling voters the DREs were only for use by persons with disabilities. The law allows any person who asks to vote on a DRE to have access to that method of voting. By incorrectly telling a voter that only a person with a disability may use the equipment, the poll worker may be embarrassing someone who has a disability that is not readily apparent and does not wish to discuss it with others. Seniors wishing to take advantage of the larger font size or people with dyslexia wishing to use the audio feature may not consider themselves disabled and would not wish to be so designated. Also, the language or audio accessibility feature may be preferable to some voters who are not comfortable with a printed ballot.

- Waiting to set up accessible voting booths until someone asks to use one separates the voter from the rest of the voting public by emphasizing the need for "different" treatment and may require the voter to wait longer to cast their ballot.

- There were many more comments on voter privacy issues in February 2008 than SOS observers had noted in both 2006 elections. The key shortcoming was in the use of secrecy sleeves. In one county, polling places did not receive any secrecy sleeves. In another county, the secrecy sleeves were provided, but there were not made available to voters because the topic had not been covered in training. In many other counties, the secrecy sleeve was removed by a poll worker before the ballot was placed in the box or was available on the table but not handed to voters, so many voters did not know to use it. On a related issue, SOS observers reported many instances of poll workers shouting out the political party ballot that was to be handed to a voter so that everyone in the polling location could hear.

- Some counties told poll workers not to tell DTS voters that they could vote either AIP or Democratic ballots. Other counties told poll workers to mention the parties with open primaries, but some DTS voters thought that AIP was not a political party and simply a nonpartisan ballot. Some poll workers had made table tent signs listing the parties that allowed DTS voters to vote in their primary election. The best solution SOS observers reported was Butte County's "Attention Non-Partisan Voters" sign that clearly listed the three ballot options available to DTS voters in this election.

Creative Solutions

Poll workers and county elections officials were able to avoid common problems or solve them quickly by applying creative solutions. Some of those were reported above, but are repeated here, along with some others.

- Butte County uses Velcro to affix new voting information signs appropriate to each election to their permanent free-standing boards, which allows them to update the boards with each election at minimal cost. (See "Signs and Flags.")

- Poll workers at one polling place in Butte County noted that voters were approaching the polling place from two main streets which were on opposite sides of the site. Voters approaching from the front of the facility (where the signs were posted) had no problem finding the polling place. Voters approaching from the other side were not sure where to park or how to find the site. Poll workers called the county, which immediately delivered an additional set of signs to that polling place.

- In San Diego County, bright yellow signs printed in four languages guided voters to the door of each polling place. (See "Signs and Flags.")

- Kern County's policy of creating a customized notebook for each polling place to assist poll workers in placement of signs, accessibility ramps, and other aids ensured that voters had easy access to the polls. (See "Signs and Flags.")

- Solano County poll workers listed street names along with the precinct numbers to assist voters in finding the right table in multi-precinct polling places. (See "Polling Facilities.")

- In Imperial County's poll worker training program, the trainer pretended she was a voter and asked the poll worker trainees what answer they would give to her questions. Trainees came up with several possible answers, and the trainer used this opportunity to mold their responses into the best possible answer. An SOS observer noted that this technique was more effective than the training she had attended in other counties in 2006.

- San Bernardino County poll worker trainers set up a mock election table to help run poll workers through various scenarios.

- Mariposa County's poll worker training sessions ended with a trivia quiz with prizes for the winners, ensuring that poll workers paid attention during their training.

- Several counties used in-booth lighting fixtures to correct the poor lighting in some facilities.

- Quick response by Orange County election officials and effective training on use of provisional ballots paid off when a precinct captain was unable to report to work due to a death in the family. Poll workers directed voters to nearby polling sites, where they were welcomed and instructed on how to vote provisional ballots, and the county sent out replacement materials and staff assistance to enable poll workers to set up the site by 8:30 a.m.